

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 559 - SB 638

February 12, 2023

SUMMARY OF BILL: Expands student eligibility for an Education Savings Account (ESA) to students who otherwise meet all other criteria and were enrolled in and attended a Tennessee public school for one full school year in the 2019-20, 2020-21, or 2021-22 school year, or were eligible for the first time to enroll in a Tennessee public school in the 2019-20, 2020-21, or 2021-22 school year.

FISCAL IMPACT:

NOT SIGNIFICANT

Assumptions:

- Public Chapter 506 of the 111th General Assembly was signed into law May 24, 2019, and created the ESA Pilot Program.
- On February 6, 2020, Metro Nashville and Shelby County sued the State, contending that Tennessee's ESA Pilot Program violated sections of the Tennessee Constitution.
- On May 4, 2020, the Chancery Court of Davidson County ruled that the program violated the Home Rule provision of the state constitution and entered an order preventing the State from advancing the program.
- On July 13, 2022, The Chancery Court of Davidson County lifted the injunction on the ESA allowing DOE to resume operation of the program, making the 2022-23 school year the first year of the program.
- ESA eligibility pursuant to Tenn. Code Ann. § 49-6-2602(3)(A) currently requires a student to be a resident of this state who:
 - was previously enrolled in and attended a Tennessee public school for the one full school year immediately preceding the school year for which the student receives an education savings account;
 - is eligible for the first time to enroll in a Tennessee school; or
 - received an education savings account in the previous school year.
- Public Chapter 506 of the 111th General Assembly establishes annual enrollment limits for participation in the Tennessee ESA Pilot Program as follows:
 - 5,000 students in the first year;
 - 7,500 students in the second year;
 - 10,000 students in the third year;
 - 12,500 students in the fourth year; and
 - 15,000 students in the fifth year.

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- Based on the number of eligible students and the participation rate, it is assumed that the yearly cap will be reached every year under current law.
- Because the enrollment limit is expected to be met every year under current law, expanding the number of eligible students will not affect the total number of participants in the Tennessee ESA Pilot Program.
- The program has already been funded at certain enrollment levels in statute and the proposed legislation will not require any additional state expenditures.
- Public Chapter 506 of the 111th General Assembly prevents any LEA from losing the revenue generated by a student in the ESA Pilot Program for the first three years. Thus, there will be no fiscal impact for LEAs in school years 2023-24 and 2024-25, the second and third years of the program.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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